



PLANNING COMMISSION

AGENDA REPORT

III. 2.

MEETING DATE: SEPTEMBER 12, 2005

ITEM NUMBER:

**SUBJECT: PLANNING APPLICATIONS PA-01-03 AND PA-01-04 (ONE – YEAR TIME EXTENSION)
2059 HARBOR BOULEVARD**

DATE: SEPTEMBER 1, 2005

**FOR FURTHER INFORMATION CONTACT: MEL LEE, AICP, SENIOR PLANNER
(714) 754-5611**

PROJECT DESCRIPTION

The applicant is requesting approval of a one-year time extension for the following applications:

PA-01-03

Conditional use permit to allow motor vehicle sales at the front (Harbor Boulevard end) of the lot with an administrative adjustment to deviate from landscape setbacks for auto display (20-foot front landscape setback required, 15-foot landscape setback proposed).

PA-01-04

Conditional use permit to legalize outdoor storage of motor vehicles at the rear (Charles Street end) of the lot.

APPLICANT

The applicant is Wesley N. Taylor, representing the property owner, Beacon Bay Enterprises, Inc., and the buyer of the property, Robins Properties.

RECOMMENDATION

Approve extension to September 4, 2006, by adoption of Planning Commission resolution, subject to conditions.

MEL LEE, AICP
Senior Planner

KIMBERLY BRANDT, AICP
Principal Planner

BACKGROUND/ANALYSIS

The subject site, which is vacant, was utilized as a car wash and gas station (Beacon Bay Auto Wash) from 1961 to 2001. A small take-out restaurant also existed on the property. Robins Properties (Theodore Robins Ford) is in escrow to purchase the property from Beacon Bay.

On July 23, 2001, the Planning Commission considered the following planning applications for the subject property:

PA-01-03 for the front (Harbor Boulevard) half of the lot:

The applicant requested approval of a conditional use permit to allow motor vehicle sales with an administrative adjustment to deviate from front landscape setbacks for auto display purposes (20-foot front landscape setback required, 15-foot landscape setback proposed).

PA-01-04 for the rear (Charle Street) half of the lot:

The applicant requested approval of a conditional use permit to legalize outdoor storage of motor vehicles with an administrative adjustment to deviate from rear landscape setbacks (15-foot rear landscape setback required, 10-foot landscape setback proposed). Planning Commission approved PA-01-04 with respect to the vehicle storage, but denied the applicant's request to deviate from the required 15-foot rear landscape setback requirement.

As part of the project approval, vehicle access to the site from Charle Street was limited to a single driveway.

Commission's approval of the applications was appealed by a Council member. City Council upheld the approval of the project on September 4, 2001. Since the project approval, the applicant has been requesting one-year extensions of time to keep the project approval valid while the site is being remediated for soil and groundwater contamination.

Escrow on the property cannot close until the site remediation has been completed and a closure letter issued by the County. Based on the information provided by the applicant's engineer, remediation of the site is expected to be completed by August or September of 2006. A copy of the applicant's time extension request and the engineer's letter are attached to this report for reference.

There have been no changes in the City Codes that affect the project as originally approved. Copies of the hearing minutes, and staff report for the previous time extension request are attached to this report for reference.

ALTERNATIVES

If the time extension were not approved, the original permits would expire and the proposed uses could not be established on the property. The applicant could file a new application after six months.

CONCLUSION

It is staff's opinion that the time extension requested by the applicant should be granted to allow the cleanup of the site to be completed and the improvements to move forward.

Attachments: Extension Request
 Remediation Status Report
 Draft Planning Commission Resolution
 Exhibit "A" – Findings (PA-01-03)
 Exhibit "B" – Conditions (PA-01-03)
 Exhibit "A" – Findings (PA-01-04)
 Exhibit "B" – Conditions (PA-01-04)
 Planning Commission Minutes for September 13, 2004
 Planning Staff Report for September 13, 2004
 Location Map
 Plans

cc: Deputy City Manager - Dev. Svs. Director
 Assistant City Attorney
 City Engineer
 Fire Protection Analyst
 Staff (4)
 File (2)

Wesley N. Taylor
 3 Civic Plaza, Suite 165
 Newport Beach, CA 92660

Patrick Shea
 Beacon Bay Enterprises, Inc.
 3152 Redhill Avenue, Suite 230
 Costa Mesa, CA 92626-3418

Jim Robins
 Robins Properties
 2060 Harbor Boulevard
 Costa Mesa, CA 92627

WESLEY N. TAYLOR CO. "SINCE 1946"

• COMMERCIAL-INDUSTRIAL BROKERAGE •

3 Civic Plaza
Suite 165
Newport Beach, CA 92660
(949) 644-4910
FAX (949) 640-1539

RECEIVED
CITY OF COSTA MESA
DEVELOPMENT SERVICES DEPARTMENT

February 28, 2005

MAR - 1 2005

Mr. Melvin E. Lee
PLANNING DIVISION
COSTA MESA CITY HALL
77 Fair Drive
Costa Mesa, California 92628-1200

Dear Mel:

We wanted you to know that we are keeping close tab on the remediation activities at 2059 Harbor Boulevard.

Enclosed herewith is a letter from the Environmental Engineers relative to the anticipated completion date.

Robins Properties Conditional Use Permit will expire September 4, 2005. Please be advised that we will be making a timely application for an extension in order that work may progress as needed. Thank you for your cooperation.

Very truly yours,

WESLEY N. TAYLOR CO.



Wesley N. Taylor
President
WNT:mcf

cc: Theodore Robins, Jr.
Patrick Shea

C. JAMES & ASSOCIATES, INC.
"Protecting America's Resources Since 1988"
441 Calle Corazon
Oceanside, California 92057

(760) 722-0050

FAX (760) 722-0150
RECEIVED
CITY OF COSTA MESA
DEVELOPMENT SERVICES DEPARTMENT

February 23, 2005

Wesley N. Taylor Co.
3 Civic Plaza, Suite 165
Newport Beach, CA 92660

MAR - 1 2005

**SUBJECT: Beacon Bay Enterprises, Inc., 2059 Harbor Boulevard, Costa Mesa,
California - OCHCA Case #99UT20**

Mr. Taylor:

In response to your inquiry on January 17, 2005 C. James & Associates, Inc. has researched the anticipated completion date of remediation activities at the above referenced location.

As indicated in our 4th Quarter 2004 Groundwater Monitoring Report the thermal oxidizer was permanently taken out of service on December 31, 2004.

Based upon the results of groundwater sampling conducted during the 1st quarter of 2005 and discussions with the Orange County Health Care Agency, additional groundwater remediation (polishing) is necessary to obtain closure at this location.

Additional groundwater remediation would entail several events of over-purging existing groundwater monitoring wells to removed dissolved phase contaminants. Once groundwater contaminants have been reduced to target cleanup concentrations confirmation soil borings will be conducted.. It is anticipated that these activities will provide site closure within 18-months from the date of this correspondence.

Should you need additional information regarding this subject please contact the undersigned at your earliest convenience.

Sincerely:


C. James & Associates, Inc.

Michael Anselmo
Principal

cc: Mr. Patrick Shea, Beacon Bay Enterprises, Inc.
Bob Robins

RESOLUTION NO. PC-05-

**A RESOLUTION OF THE PLANNING COMMISSION OF THE
CITY OF COSTA MESA APPROVING AN EXTENSION OF
TIME FOR CONDITIONAL USE PERMIT PA-01-03 AND PA-
01-04**

THE PLANNING COMMISSION OF THE CITY OF COSTA MESA HEREBY
RESOLVES AS FOLLOWS:

WHEREAS, an application was filed by Wesley N. Taylor, authorized agent for Beacon Bay Enterprises, Inc., owner of real property located at 2059 Harbor Boulevard, requesting a one-year extension of time for previously-approved conditional use permits to allow motor vehicle sales on the front half of the lot with an administrative adjustment to deviate from front landscape setbacks for auto display (20-foot landscape setback required, 15-foot landscape setback proposed); and to allow outdoor storage of motor vehicles on the rear half of the lot; and,

WHEREAS, a duly noticed public hearing was held by the Planning Commission on September 12, 2005.

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A", and subject to the conditions contained in Exhibit "B", the Planning Commission hereby **APPROVES** the extension of time to September 4, 2006, for Conditional Use Permit PA-01-03 and PA-01-04 with respect to the property described above.

BE IT FURTHER RESOLVED that the Costa Mesa Planning Commission does hereby find and determine that adoption of this resolution is expressly predicated upon the activity as described in the staff report for Conditional Use Permit PA-01-03 and PA-01-04 and upon applicant's compliance with each and all of the conditions contained in Exhibit "B". Any approval granted by this resolution shall be subject to review, modification or revocation if there is a material change that occurs in the operation, or if the applicant fails to comply with any of the conditions of approval.

PASSED AND ADOPTED this 12th day of September, 2005.

Chair, Costa Mesa
Planning Commission

STATE OF CALIFORNIA)
)ss
COUNTY OF ORANGE)

I, Kimberly Brandt, acting secretary to the Planning Commission of the City of Costa Mesa, do hereby certify that the foregoing Resolution was passed and adopted at a meeting of the City of Costa Mesa Planning Commission held on September 12, 2005, by the following votes:

AYES: COMMISSIONERS

NOES: COMMISSIONERS

ABSENT: COMMISSIONERS

ABSTAIN: COMMISSIONERS

Acting Secretary, Costa Mesa
Planning Commission

EXHIBIT "A"**FINDINGS (PA-01-03)**

- A. The information presented substantially complies with Costa Mesa Municipal Code Section 13-29(g)(2) in that the proposed use is substantially compatible with developments in the same general area. Granting the conditional use permit will not be detrimental to the health, safety and general welfare of the public or other properties or improvements within the immediate vicinity. Specifically, the motor vehicle sales use proposed for the front portion of the site is consistent and compatible with the commercial uses on adjacent properties and motor vehicle sales uses elsewhere on Harbor Boulevard. Granting the conditional use permit will not allow a use, density or intensity, which is not in accordance with the general plan designation for the property.
- B. The proposed project complies with Costa Mesa Municipal Code Section 13-29 (e) because:
- a. The proposed development and use is compatible and harmonious with uses both on-site as well as those on surrounding properties.
 - b. Safety and compatibility of the design of the buildings, parking areas, landscaping, luminaries, and other site features including functional aspects of the site development such as automobile and pedestrian circulation have been considered.
 - c. The proposed project complies with applicable performance standards prescribed in the Zoning Code.
 - d. The project is consistent with the General Plan.
 - e. The planning application is for a project-specific case and does not establish a precedent for future development.
- C. The information presented substantially complies with Section 13-29(g)(1) and Section 13-144(b) of the Costa Mesa Municipal Code in that special circumstances applicable to the property exist to justify granting of the administrative adjustment. Specifically, the strict application of the code-required landscaped setback would place the applicant at a competitive disadvantage to similar auto sales uses along Harbor Boulevard, many of which were approved with reduced landscape setbacks. Due to the speed and volume of vehicle traffic along Harbor Boulevard, auto sales uses require the display of vehicles be as close to the street as possible for maximum visibility. This creates a circumstance where approval of the administrative adjustment is justified. Granting the administrative adjustment will not allow a use, density, or intensity, which is not in accordance with the General Plan designation for the property.
- D. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City environmental procedures, and has been found to be exempt from CEQA.
- E. The project, as conditioned, is exempt from Chapter XII, Article 3, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

EXHIBIT "B"**CONDITIONS OF APPROVAL (PA-01-03)**

- Plng. 1. The conditional use permit herein approved shall be valid until revoked, but shall expire upon discontinuance of the activity authorized hereby for a period of 180 days or more. The conditional use permit may be referred to the Planning Commission for modification or revocation at any time if the conditions of approval have not been complied with, if the use is being operated in violation of applicable laws or ordinances, or if, in the opinion of the development services director or his designee, any of the findings upon which the approval was based are no longer applicable.
2. Street addresses shall be displayed on the freestanding sign, or, if there is no freestanding sign, on the building fascia adjacent to the main entrance of the building in a manner visible to the public street. Street address numerals shall be a minimum 12 inches in height with not less than $\frac{3}{4}$ -inch stroke and shall contrast sharply with the background.
3. Address assignment shall be requested from the Planning Division prior to submittal of working drawings for plan check. The approved address of individual units, suites, buildings, etc., shall be blueprinted on the site plan and on all floor plans in the working drawings.
4. The subject property's ultimate finished grade level may not be filled/raised unless necessary to provide proper drainage, and in no case shall it be raised in excess of 30 inches above the finished grade of any abutting property. If additional fill dirt is needed to provide acceptable on-site stormwater flow to a public street, an alternative means of accommodating that drainage shall be approved by the City's Building Official prior to issuance of any grading or building permits. Such alternatives may include subsurface tie-in to public stormwater facilities, subsurface drainage collection systems and/or sumps with mechanical pump discharge in-lieu of gravity flow. If mechanical pump method is determined appropriate, said mechanical pump(s) shall be continuously maintained in working order. In any case, development of subject property shall preserve or improve the existing pattern of drainage on abutting properties.
5. The conditions of approval and ordinance or code provisions of Planning Application PA-01-03 shall be blueprinted on the face of the site plan.
6. The applicant shall contact the Planning Division to arrange for a planning inspection of the site prior to the release of occupancy. This inspection is to confirm that the conditions of approval and code requirements have been satisfied.
7. Street setback landscape planters shall be mounded to a high point of at least 24 inches with approved turf and/or ground cover on the street side front half of the planter and shrubbery plantings and trees on the back half.
8. Decorative wrought iron fences or masonry walls a minimum of 6 feet in height shall be constructed along the interior property lines. Chain link fencing shall not be permitted. Wall or fence color and material shall be subject to Planning Division approval.
9. Show method of screening for all ground-mounted mechanical

equipment (backflow prevention devices, Fire Department connections, electrical transformers, etc.). Ground-mounted mechanical equipment shall not be located in any landscaped setback visible from the street and shall be screened from view, under the direction of Planning Staff.

10. Rooftop mechanical equipment shall not be permitted.
11. A copy of the conditions of approval for the conditional use permit must be kept on premises and presented to any authorized City official upon request. New business/property owners shall be notified of conditions of approval upon transfer of business or ownership of land.
12. The use shall be conducted, at all times, in a manner to allow the quiet enjoyment of the surrounding neighborhood. The applicant and/or business owner shall institute whatever operational measures are necessary to comply with this requirement.
13. The use shall be limited to the sales, leasing, display and storage of motor vehicles. This conditional use permit does not authorize the service or repair of motor vehicles. Any use which has the effect of expanding or intensifying the use on the property shall be subject to review by the Planning Division and may require the approval of a new conditional use permit.
14. Employees and customers shall be required to park on-site.
15. There shall be no test driving of vehicles on residential streets.
16. The use of loudspeakers, public address and/or paging systems, and two-way radios shall be prohibited.
17. The applicant shall provide a minimum of 150 square feet of interior landscaping, subject to Planning Division approval.
18. Construction, grading, materials delivery, equipment operation or other noise-generating activity shall be limited to between the hours of 7 a.m. and 8 p.m., Monday through Friday, and between the hours of 8 a.m. and 7 p.m. on Saturday, Sunday, and Federal holidays. Exceptions may be made for activities that will not generate noise audible from off-site, such as painting and other quiet interior work.
- Trans. 19. Access to the rear (Charle Street) half of the site shall be limited to a single driveway; the location and width of the driveway to be determined by the Planning Division in conjunction with the applicant. The gate on the driveway shall be opaque and access shall be limited from 8 a.m. to 4p.m. Vehicle transport trucks are prohibited from loading or unloading on Charle Street.
- Eng. 20. Maintain the site and public right-of-way in a "wet-down" condition during construction to prevent excessive dust and remove any spillage from the public right-of-way by sweeping or sprinkling.
21. Until remediation is completed and improvements installed, the applicant shall provide a minimum 15-foot landscape setback along Charle Street and a 4-foot landscape setback along Harbor Boulevard, and shall provide a 6-foot high chain link fence with slats and planting material along the Charle Street frontage to form an opaque screen, to be replaced with a solid block wall when the site remediation is completed.

EXHIBIT "A"**FINDINGS- PA-01-04**

- A. The information presented substantially complies with Costa Mesa Municipal Code Section 13-29(g)(2) in that the proposed use is substantially compatible with developments in the same general area. Granting the conditional use permit will not be detrimental to the health, safety and general welfare of the public or other properties or improvements within the immediate vicinity. Specifically, vehicular access from Charle Street would be limited to a single driveway, and a solid 6-foot high decorative block wall and landscaping would be required across the entire property frontage. These requirements will ensure that storage of motor vehicles is compatible with the residential properties and future commercial development does not generate an increase in traffic on Charle Street that could adversely affect residential properties. Granting the conditional use permit will not allow a use, density or intensity which is not in accordance with the general plan designation for the property.
- B. The proposed project complies with Costa Mesa Municipal Code Section 13-29 (e) because:
- a. The proposed development and use is compatible and harmonious with uses both on-site as well as those on surrounding properties.
 - b. Safety and compatibility of the design of the buildings, parking areas, landscaping, luminaries, and other site features including functional aspects of the site development such as automobile and pedestrian circulation have been considered.
 - c. The proposed project complies with applicable performance standards prescribed in the Zoning Code.
 - d. The project is consistent with the General Plan.
 - e. The planning application is for a project-specific case and does not establish a precedent for future development.
- C. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City environmental procedures, and has been found to be exempt from CEQA.
- D. The project, as conditioned, is exempt from Chapter XII, Article 3, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

EXHIBIT "B"**CONDITIONS OF APPROVAL (PA-01-04)**

- Plng. 1. The conditional use permit herein approved shall be valid until revoked, but shall expire upon discontinuance of the activity authorized hereby for a period of 180 days or more. The conditional use permit may be referred to the Planning Commission for modification or revocation at any time if the conditions of approval have not been complied with, if the use is being operated in violation of applicable laws or ordinances, or if, in the opinion of the development services director or his designee, any of the findings upon which the approval was based are no longer applicable.
2. Street addresses shall be displayed on the freestanding sign, or, if there is no freestanding sign, on the building fascia adjacent to the main entrance of the building in a manner visible to the public street. Street address numerals shall be a minimum 12 inches in height with not less than 3/4-inch stroke and shall contrast sharply with the background.
3. Address assignment shall be requested from the Planning Division prior to submittal of working drawings for plan check. The approved address of individual units, suites, buildings, etc., shall be blueprinted on the site plan and on all floor plans in the working drawings.
4. The applicant shall contact the Planning Division to arrange for a planning inspection of the site. This inspection is to confirm that the conditions of approval and code requirements have been satisfied.
5. The applicant shall provide a 15-foot landscaped setback along Charle Street.
6. Street setback landscape planters shall be mounded to a high point of at least 24 inches with approved turf and/or ground cover on the street side front half of the planter and shrubbery plantings and trees on the back half.
7. A permanent masonry wall a minimum of 6 feet in height shall be constructed behind the required landscape setback along Charle Street. Decorative wrought iron fences or masonry walls a minimum of 6 feet in height shall be constructed along the interior property lines. Chain link fencing shall not be permitted. Wall and fence colors and materials shall be subject to Planning Division approval.
8. Show method of screening for all ground-mounted mechanical equipment (backflow prevention devices, Fire Department connections, electrical transformers, etc.). Ground-mounted mechanical equipment shall not be located in any landscaped setback visible from the street and shall be screened from view, under the direction of Planning Staff.
9. A copy of the conditions of approval for the conditional use permit must be kept on premises and presented to any authorized City official upon request. New business/property owners shall be notified of conditions of approval upon transfer of business or ownership of land.
10. The use shall be conducted, at all times, in a manner to allow the quiet enjoyment of the surrounding neighborhood. The applicant and/or business owner shall institute whatever operational measures are necessary to comply with this requirement.
11. Approval of this project is limited to the following use: sales, leasing, and

storage of motor vehicles. This conditional use permit does not authorize the service or repair of motor vehicles. Any use which has the effect of expanding or intensifying the use on the property shall be subject to review by the Planning Division and may require the approval of a new conditional use permit.

- 12. No storage of vehicles in a wrecked or dismantled condition shall be permitted.
- 13. No signage of any type, including, but not limited to, balloons, pennants, price signs, and banners, shall be placed along the Charle Street frontage or displayed on the stored vehicles.
- Trans. 14. Deleted.
- 15. Access to the rear (Charle Street) half of the site shall be limited to a single driveway; the location and width of the driveway to be determined by the Planning Division in conjunction with the applicant. The gate on the driveway shall be opaque and access shall be limited from 8 a.m. to 4p.m. Vehicle transport trucks are prohibited from loading or unloading on Charle Street.
- Eng. 16. Maintain the site and public right-of-way in a "wet-down" condition during construction to prevent excessive dust and remove any spillage from the public right-of-way by sweeping or sprinkling.
- 17. Deleted.
- 18. Deleted.
- 19. The applicant shall provide bi-annual reports of the status of the site remediation to the Planning Division for review.
- 20. Until remediation is completed and improvements installed, the applicant shall provide a minimum 15-foot landscape setback along Charle Street and a 4-foot landscape setback along Harbor Boulevard, and shall provide a 6-foot high chain link fence with slats and planting material along the Charle Street frontage to form an opaque screen, to be replaced with a solid block wall when the site remediation is completed.

Commissioner Foley said she is supporting the project for many of the reasons expressed by the Chair. She said the visual prominence of the building would definitely be an attractive addition to our community. She said that personally, she would like to improve things in this area into something more attractive. The narrow and stepped-type of building this is on Newport Boulevard, visually lessens the impact from the street. The 4 stories comply with the General Plan policies and the traffic is no different, and there would be much more traffic if it was a retail center. This will encourage revitalization, and it may encourage the neighboring properties to improve their properties. She said she wanted to make it clear that this project was analyzed with "no 19th Street Bridge" and it would not trigger a requirement of a 19th Street Bridge.

Commissioner Bever said he concurred with the comments that have been made and if there is one downside, it is because we are not taking that whole block and making something new out of it.

The Chair called a recess and the meeting resumed at 9:45 p.m.

The Chair opened the public hearing for consideration of an extension of time for PA-01-03 and PA-01-04, plus possible modification of conditions for Wesley Taylor, authorized agent for Beacon Bay Enterprises, for conditional use permits to allow motor vehicle sales on the front half of the lot with an administrative adjustment to deviate from front landscape setbacks for auto display (20-foot landscape setback required; 15-foot landscape setback proposed); and to allow outdoor storage of motor vehicles on the rear half of a commercial property, located at 2059 Harbor Boulevard in a C2 zone. Environmental determination: exempt.

Associate Planner Mel Lee reviewed the information in the staff report and gave a presentation. He said staff was recommending approval of the extension to September 4, 2005, by adoption of Planning Commission resolution, subject to conditions.

Mr. Lee confirmed with the Chair that the maximum extension the Commission can approve is one year and that it could take several additional extensions depending on the extent of the soil remediation. In response to a question from Commissioner Bever regarding changes in Charle Street access, Mr. Lee said that at the time the project was originally approved, staff had recommended that the 2 driveway approaches along the Charle Street frontage be closed off and access taken directly from Harbor Boulevard, and was later modified over the course to the CUP, to allow 1 driveway to remain along the Charle Street frontage.

Wesley Taylor, authorized agent for Beacon Bay Enterprises, 3 Civic Plaza, Newport Beach, reviewed all of the most recent improvements since the Planning Commission meeting of February 23, 2004. Mr. Taylor agreed to the clerical corrections for the extension date and the condition relative to the one driveway on Charle Street.

Tiny Hyder, a Myran Drive resident, Costa Mesa, stated that homeless people congregate around the inside perimeter of the property at night, and the odor permeating from this property during the day is almost unbearable. She said this area is becoming a "night flop" for the street people and as time passes, the problem is growing. She said the stench from the oil is very bad but the mixture from the homeless makes it much worse. In response to a request from the Chair, Ms. Brandt agreed to notify the appropriate City personnel regarding the problem.

No one else wished to speak, and the Chair closed the public hearing.

BREAK:

EXTENSION OF TIME FOR PA-01-03 & PA-01-04 PLUS POSSIBLE MODIFICATION OF CONDITIONS

Beacon Bay Enterprises/Taylor

*This Item Was Heard First
Under Public Hearings:*

MOTION:
PA-01-03/PA-01-04
Approved Extension

PLANNING APPLICATION
PA-04-14

Saunders/Sax

A motion was made by Vice Chair Perkins, seconded by Commissioner Bever, and carried 5-0 to approve the extension of time for PA-01-03 and PA-01-04 to September 4, 2005, by adoption of Planning Commission Resolution PC-04-55, based on analysis and information contained in the Planning Division staff report and findings contained in exhibit "A", subject to conditions in exhibit "B."

The Chair opened the public hearing for consideration of Planning Application PA-04-14 for Stan Sax, authorized agent for John Saunders, Doug Morehead and Jason Golding, to allow a restaurant/bar/nightclub to serve alcoholic beverages after 11 p.m. (midnight Sunday through Thursday and 2 a.m. Friday and Saturday), to allow live entertainment/dancing within 200 feet of a residential use, and to allow off-site parking at 2801 Bristol Street for a restaurant located at 2831 Bristol Street in a CL zone. Environmental determination: exempt.

Associate Planner Mel Lee reviewed the information in the staff report and gave a presentation. He said staff was recommending denial by adoption of the Planning Commission resolution.

Mr. Lee explained that the property was formerly occupied by a restaurant known as, "Arnie's Manhattan Deli." The restaurant hours of operation were limited to 11 p.m. and live entertainment and dancing were not allowed. Previous requests for a conditional use permit to allow live entertainment and dancing in that same building were denied by both the Planning Commission and City Council in 1984. The property is zoned commercial (CL). Immediately behind the restaurant is an existing nonconforming, 2-story, 30-unit apartment complex called "Bristol Bay Apartments." Mr. Lee described other residential properties in proximity to the restaurant and the high probability of potential parking problems that might occur between residents of these properties and patrons of the restaurant.

He said the applicant is proposing to reopen the restaurant as "Hamburger Mary's Bar and Grill"; a combination restaurant, bar, and nightclub, including extended hours of operation, and a request for live entertainment and dancing. Staff believes that because only 126 feet separate the restaurant from the adjacent residential, parking could easily become a problem to nearby residents.

They are also proposing a 500 square-foot outdoor patio, which would add floor area to the existing establishment and requires additional parking. To offset the number of parking spaces required by code, the applicant has proposed the minor conditional use permit allow for the off-site parking with an existing office complex immediately adjacent to this property.

Staff's primary concern is the proximity of these apartments to the restaurant building and parking area to be used by the patrons of the restaurant. Because the proposed use would have the operational characteristics of a nightclub, (live entertainment and dancing), and would be open past 11 p.m., noise impacts could be potentially disruptive to all nearby residents.

Mr. Lee noted that this restaurant could still be established at this location under the previously approved CUP which was required to close at 11 p.m.; had no entertainment or dancing; nor would the applicant be permitted to construct the patio which would create the need for the off site parking. He said the Commission could also approve the application and he requested conditions that should they decide to do so, would be implemented to mitigate some of the concerns he previously discussed.



CITY OF COSTA MESA

P.O. BOX 1200 • 77 FAIR DRIVE • CALIFORNIA 92628-1200

DEVELOPMENT SERVICES DEPARTMENT

**FOR ATTACHMENTS NOT INCLUDED IN THIS REPORT,
PLEASE CONTACT THE PLANNING DIV. AT (714)754-5245.**